

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARK T. DUBLINO,

Plaintiff,

v.

SGT. JUSTIN BIEGAJ, SGT. ROBERT DEE,
DEPUTY BRIAN THOMPSON,
DEPUTY FRANK GELSTER,
SGT. MR. CROSS, SGT. MR. ROBINSON,
DEPUTY MR. P. GIARDINA, and
DEPUTY SHAWN WILSON,

Defendants.

SUPPORTING
DECLARATION

Case No.: 19-cv-6269

STATE OF NEW YORK)
COUNTY OF ERIE) ss
CITY OF BUFFALO)

Erin E. Molisani, being first duly sworn, deposes and says under penalty of perjury and pursuant to 28 U.S.C. §1746 that the following is true and correct:

1. I am an attorney at law admitted to practice before this Court and am an Assistant County Attorney to Michael A. Siragusa, Esq., Erie County Attorney and counsel for defendants Biegaj, Dee, Thompson, Gelster, Cross, Robinson, Giardina, and Wilson (hereinafter “defendants”). In this capacity, I am fully familiar with the facts and circumstances of this litigation.
2. I offer this Supporting Declaration in support of defendants’ motion for summary judgment seeking dismissal of plaintiff’s Amended Complaint (Dkt. No. 8).
3. Previously, this Court screened plaintiff’s Amended Complaint pursuant to 28 U.S.C. §§ 1915(e)(2)(8) and 1915A(a) and directed the matter to proceed to service (Dkt. No. 10).
4. Defendants served their Answer on October 2, 2019 (Dkt. No. 13).

5. Defendants filed their Rule 26 disclosures on February 5, 2020 (Dkt. No. 32), which included a certified copy of plaintiff's medical records from the date of the subject incident until his transfer out of the facility (Dkt. No. 32-6).

6. In addition to the docket filings referenced with this motion, defendants rely on the following exhibits in support of their motion:

- Exhibit A:** Plaintiff's deposition testimony dated June 7, 2021
- Exhibit B:** Video from March 9, 2018 and Affidavits of Deputy Brian Thompson and Sergeant Robert Dee
- Exhibit C:** Deputy Brian Thompson's deposition testimony dated June 9, 2021
- Exhibit D:** Deputy Frank Gelster's deposition testimony dated June 9, 2021
- Exhibit E:** Sergeant Jack Robinson's deposition testimony dated June 10, 2021
- Exhibit F:** Deputy Peter Giardina's deposition testimony dated June 11, 2021
- Exhibit G:** Deputy Shawn Wilson's deposition testimony dated July 8, 2021
- Exhibit H:** Sergeant Justin Biegaj's deposition testimony dated July 8, 2021
- Exhibit I:** Sergeant Matthew Cross' deposition testimony dated July 9, 2021
- Exhibit J:** Sergeant Robert Dee's deposition testimony dated July 9, 2021
- Exhibit K:** Defendants' Notice to Admit
- Exhibit L:** Plaintiff's Response to Notice to Admit

7. Defendants submit that there are no triable issues of fact and summary judgment is appropriate.

DATED: Buffalo, New York
October 8, 2021

MICHAEL A. SIRAGUSA
Erie County Attorney

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